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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,938	02/27/2002	George Worthley	GEM-P-02-001	8384

7590 08/11/2004

PATENTS+TMS  
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1914 North Milwaukee Avenue  
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EXAMINER

LEWIS, KIM M

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/083,938

Applicant(s)

WORTHLEY, GEORGE

Examiner

Kim M. Lewis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 0426.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-22 is/are allowed.
- 6) ☒ Claim(s) 23-26 is/are rejected.
- 7) ☒ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Detailed Action.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on 4/26/04 has been received and made of record in the application file wrapper. As requested claims 1, 14 and 19 have been amended and claims 23-27 have been added.

### ***Drawings***

2. The drawings were received on 4/26/04. These drawings are approved by the examiner.

### ***Claim Objections***

3. Claim 27 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. More specifically, claim 27 depends from claim 28, which is not present in the instant application.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As regards claim 27, the metes and bounds cannot be determined since the claim depends on a claim not present in the application. Accordingly, prior art comparisons can not be made with regard to claim 27.

***Claim Rejections - 35 USC § 103***

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 465 023 ("Riedel") in view of U.S. Patent No. 6,592,888 ("Jensen et al.")

As regards claim 23, Reidel discloses a dressing comprising: a semi-permeable film (13) having a top side, a bottom side opposite to the top side, a first edge and a second edge opposite to the first edge; an adhesive layer (14) covering the bottom side of the semi-permeable film; a hydrocolloid adhesive layer (12) attached to the adhesive layer wherein the hydrocolloid adhesive layer has a perimeter; and a window (opening)

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in the hydrocolloid adhesive layer wherein the window is within the perimeter of the hydrocolloid silver adhesive layer (col.2, line 46-col. 6).

Reidel fails to teach a the hydrocolloid adhesive layer is a hydrocolloid silver adhesive layer and that the adhesive layer extends outward with respect to the window beyond the perimeter of the hydrocolloid adhesive layer. However, Jensen et al. teach it is conventional in the art to provide wound dressings with adhesive material comprising both hydrocolloid material and silver because hydrocolloids are highly absorbent and silver is an anti-microbial agent that kills bacteria (col. 3, line 26-col. 4, line 41).

In view of Jensen et al., it would have been obvious to one having ordinary skill in the art to modify Riedel by substituting the adhesive layer for a hydrocolloid adhesive because hydrocolloids are highly absorbent and silver is an anti-microbial agent that kills bacteria. Such a substitution requires only routine skill in the art.

As to the extension of the adhesive layer, the examiner contends that it would have been *prima facie* obvious to one having ordinary skill in the art to modify the device of Riedel by extending the cover layer (13) such that it can adhere to the skin in order to ensure that the dressing remains in place on the user.

As regards claims 24, note col. 2, lines 46-55, which discloses the permeability of the film.

As regard claims 25, it is commonly known and inherent that silver is an antimicrobial agent.

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As regard clams 26, Riedel fails to teach a release layer. It would also have been prima facie obvious to one having ordinary skill in the art to prove the dressing of Riedel with a release layer in order to protect the dressing from contaminants prior to use.

### ***Allowable Subject Matter***

8. Claims 1-22 are allowed.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 23-27 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

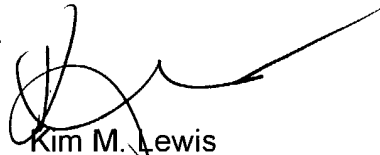
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is 703.308.1191. The examiner can normally be reached on Mondays to Thursdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on 703.308.0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kim M. Lewis  
Primary Examiner  
Art Unit 3743

kml  
August 9, 2004